

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Sam Yoder,

Case No. 5:13 CV 118

Petitioner,

ORDER ADOPTING
REPORT AND RECOMMENDATION

-vs-

JUDGE JACK ZOUHARY

Terry A. Tibbals,

Respondent.

This Court has reviewed the Report and Recommendation (“R&R”) of the Magistrate Judge filed July 15, 2014 (Doc. 20). The R&R recommends this Court dismiss Yoder’s Petition as procedurally defaulted.

Under 28 U.S.C. § 636(b)(1), a party must serve written objections to the Magistrate Judge’s proposed findings and recommendations within fourteen (14) days of being served with the R&R, at which time this Court makes a de novo determination of those portions of the R&R to which objections were made. The failure to file objections within the time frame set forth in the statute constitutes a waiver of de novo review by the district court. *See United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005); *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

Petitioner’s deadline for filing objections has passed, and no request for an extension has been received. The R&R accurately states the facts and law, which this Court adopts in its entirety. Accordingly, this Court dismisses the Petition with prejudice. This Court further certifies that an

appeal from this decision could not be taken in good faith and declines to issue a certificate of appealability. *See* 28 U.S.C. § 2253.

IT IS SO ORDERED.

s/ Jack Zouhary
JACK ZOUHARY
U.S. DISTRICT JUDGE

July 31, 2014